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August 4, 2014

Gregg McLean Adam  
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**VIA E-MAIL AND U.S. MAIL**

Ed Shikada  
City Manager  
City of San Jose  
200 East Santa Clara Street  
San José, CA 95113  
E-Mail: [ed.shikada@sanjoseca.gov](mailto:ed.shikada@sanjoseca.gov)

**Re: Ballot Language re Modifications to Measure B**  
File No.: 040525

Dear City Manager Shikada:

The POA asked me to reiterate to you—and to members of the City Council, who are copy recipients of this letter—its position with respect to the proposed ballot measure that would change the definition of disability and afford a “right of return” for departed Tier 1 officers. As I explained in my letter of July 14, 2014 (copy attached), the POA opposes the Council’s ill-conceived “band-aid.” A meaningful fix was presented in the June 16, 2014 Term Sheet, but predictably the Council fumbled it.

The POA heard nothing back from the City after my July 14 letter. So it was with some surprise that I heard the Mayor on NPR’s “California Report,” at the end of the business day on Friday, discussing the same ballot measure and creating at least the impression that he intends to move forward with it.

Ed Shikada  
Re: Ballot Language re Modifications to Measure B  
August 4, 2014  
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It would be illegal for the Council to move forward unilaterally because the changes contemplated are within the scope of bargaining, something your memorandum of July 18—to its credit—concedes. As you further acknowledge, as of the date of your memorandum, *"no agreement has been reached nor has the meet and confer process been completed."*

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP



Gregg McLean Adam

GMA:jo  
Enclosure

cc: Mayor Chuck Reed  
San Jose City Council  
Jim Unland, President, San Jose POA  
John Robb, Vice-President, San Jose POA

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July 14, 2014

Gregg McLean Adam  
Direct Dial: 415.743.2534  
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**VIA E-MAIL AND U.S. MAIL**

Arthur A. Hartinger Esq.  
Meyers, Nave, Riback, Silver & Wilson  
555 12th Street, Suite 1500  
Oakland, CA 94607

**Re: Proposed New Ballot Language on Disability Retirement and  
Exodus Officers**  
File No.: 040326

Dear Art:

Today, you should have received correspondence from Chris and me in response to your letter dated July 9, 2014. That letter addressed the status of our settlement discussions. I am writing separately to respond to your inquiries regarding a proposed new ballot measure that has been unilaterally drafted by the City.

In short, the POA rejects the proposal to further amend the disability retirement language by ballot measure. We shared the City Manager's belief that a global settlement was possible. We do not favor the piecemeal approach contemplated.

Article 19 of the MOA precludes the City from making changes within the scope of bargaining, whether by Charter amendment, ordinance, or otherwise, without the approval of the POA. The POA declines to give its approval. Unlike 2011, when the MOA contained express reopeners for retirement, the current MOA has no such reopener. It is therefore a closed contract and changes within the scope of bargaining, such as those contemplated by the ballot proposal, must wait until 2016.

Arthur A. Hartinger Esq.

Re: Proposed New Ballot Language on Disability Retirement and Exodus Officers

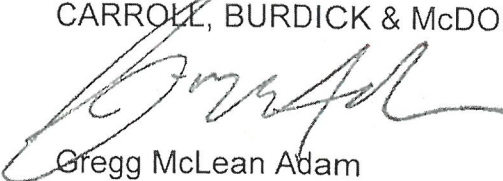
July 14, 2014

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Please advise by close of business on Friday – i.e., July 18 – that the City will either withdraw its proposal or rewrite the proposal to make it non-applicable to current or future employees represented by the POA.

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP



Gregg McLean Adam

GMA:jo

cc: Ed Shikada, City Manager  
Richard Doyle, City Attorney  
Nora Frimann, Assistant City Attorney  
Alex Gurza, Deputy City Manager  
Jennifer Schembri, Deputy Director Employee Relations  
Linda M. Ross Esq.  
Jim Unland, President, San Jose POA  
Joel Phelan, President, IAFF Local 230, San Jose Firefighters  
Christopher E. Platten Esq., Wylie, McBride, Platten & Renner